

REMARKS

Applicants have now had an opportunity to carefully consider the Examiner's comments set forth in the Office Action of March 31, 2004.

All of the Examiner's rejections are traversed. Reexamination and reconsideration of the present application are respectfully requested.

The Office Action

Claims 1-3 remain in this application. Claims 4 and 5 have been canceled. Claims 6, 7 and 8 have been added.

Claims 1-3 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Barnes (U.K. Patent Application GB 2,064,263 A).

Claims 4 and 5 are objected to as being dependent upon a rejected base claim.

Claims 1-3 and 6-7 are Distinguished From the Cited Art

The Applicants gratefully acknowledge the Examiner's indication as to the allowability of claims 4 and 5 if rewritten into independent form. Thus, new claims 6 and 7 addressing this indication are now in order for allowance.

With attention to rejected independent claim 1, Barnes is applied for its argued disclosure of a gasket (first member) (4) for use with a microphone (3) including a perforated membrane (web) (44). The Examiner has equated the perforated membrane (3) of independent claim 1 of the present application with the web (44) from Barnes (Figure 1). This web (44) from Barnes, integral with first member (4), is shown to be of the same thickness as the walls of the first member. Therefore, it cannot be equated with a membrane in either the dictionary sense or the sense appropriate to the art. In the dictionary sense, a membrane is thin. The web (44) from Barnes is not thin when compared with the other features of the microphone unit (3) of which it is a part. Neither can this web (44) be considered thin according to the art. A person skilled in the art would appreciate that a membrane would have certain marginal transmissive properties, whereas the web (44) is as thick as the sound insulating features of the microphone unit (3) of Barnes. The membrane (3) of the present application is thinner in comparison to the web (44) in Barnes, as illustrated in Figure 1A.

Applicants, thus, respectfully traverse the Examiner's interpretation of

independent claim 1. As claims 2 and 3 refer to and further define this now-distinguished claim, it is submitted that these claims are also distinguished.

Also, a new claim 8 has been added to emphasize that the perforated membrane has an acoustical resistance to damp a resonance inherent in the tube construction (see page 3). The first member (4) or web (44) in the cited reference provides no such teaching or suggestion.

In view of the above, Applicants respectfully submit that the present application is in order for allowance.

CONCLUSION

For the reasons detailed above, it is submitted all claims remaining in the application (Claims 1-3 and 6-8) are now in condition for allowance. The foregoing comments do not require unnecessary additional search or examination.

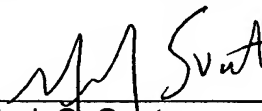
In the event the Examiner considers personal contact advantageous to the disposition of this case, he/she is hereby authorized to call Mark S. Svat, at Telephone Number (216) 861-5582.

Respectfully submitted,

FAY, SHARPE, FAGAN,
MINNICH & McKEE, LLP

7/29/01

Date



Mark S. Svat
Reg. No. 34,261
1100 Superior Avenue, 7th Floor
Cleveland, Ohio 44114-2579
(216) 861-5582